



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

**Dispute Codes:** OPR, MNR, MNSD, MNDC, FF

### **Introduction**

This hearing was convened in response to an application by the landlord pursuant to the *Residential Tenancy Act* (the Act) for Orders as follows:

1. An Order of Possession - Section 55;
2. A Monetary Order for unpaid rent - Section 67;
3. An Order to retain the security deposit - Section 38
4. An Order to recover the filing fee for this application - Section 72.

I accept the landlord's evidence that despite the tenant having been served with the application for dispute resolution and notice of hearing by *registered mail* in accordance with Section 89 of the Residential Tenancy Act (the Act) the tenant did not participate in the conference call hearing. The landlord provided proof of mail registration and the requisite tracking number for all correspondence with the respondent.

The landlord was given full opportunity to be heard, to present evidence and to make submissions.

### **Issue(s) to be Decided**

Is the notice to end tenancy valid?  
Is the landlord entitled to an Order of Possession?  
Is the landlord entitled to the monetary amounts claimed?

### **Background and Evidence**

The tenancy began on February 01, 2013 as a written tenancy agreement. The landlord testified tenant holds the original and only document as the tenancy agreement and has refused to allow the landlord a copy. None the less the verbal agreement between the parties is that the rent in the amount of \$850.00 is payable in advance on the first day of each month. At the outset of the tenancy, the landlord collected a security deposit from the tenant in the amount of \$400.00. The tenant failed to pay rent in the month of October 2013 and on October 21, 2013 the landlord served the tenant with a notice to end tenancy for non-payment of rent. The tenant further failed to pay rent in the month of November 2013. The quantum of the landlord's monetary claim is for the unpaid rent for October and November 2013.

### **Analysis**

Based on the landlord's testimony and document evidence I find that the tenant was served with a notice to end tenancy for non-payment of rent and I find the notice to be valid. The tenant has not paid the outstanding rent and has not applied for Dispute Resolution to dispute the notice and is therefore conclusively presumed to have accepted that the tenancy ended on the effective date of the notice. Based on the above facts I find that the landlord is entitled to an **Order of Possession**.

I also find that the landlord has established a monetary claim for \$1700.00 in unpaid rent. The landlord is also entitled to recovery of the \$50 filing fee, for a total entitlement of **\$1750.00**. The security deposit will be off-set from the award made herein.

***Calculation for Monetary Order***

|  |                  |
|--|------------------|
| Rental Arrears                               | \$1700.00        |
| Filing Fees for the cost of this application | 50.00            |
| Less Security Deposit                        | -400.00          |
| <b>Total Monetary Award</b>                  | <b>\$1350.00</b> |

**Conclusion**

**I grant** an Order of Possession to the landlord **effective 2 days from the day it is served** on the tenant. The tenant must be served with this **Order of Possession**. Should the tenant fail to comply with the Order, the Order may be filed in the Supreme Court of British Columbia and enforced as an Order of that Court.

**I Order** that the landlord retain the deposit of \$400.00 in partial satisfaction of the claim and I grant the landlord an Order under Section 67 of the Act for the balance due of **\$1350.00**. If necessary, this Order may be filed in the Small Claims Court and enforced as an Order of that Court.

**This Decision is final and binding on both parties.**

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: November 14, 2013

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Residential Tenancy Branch